



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5470

Introduced 2/5/2010, by Rep. Keith Farnham

SYNOPSIS AS INTRODUCED:

15 ILCS 405/10.05c new
35 ILCS 10/5-50
35 ILCS 10/5-67 new

Amends the Economic Development for a Growing Economy (EDGE) Tax Credit Act. Requires EDGE tax credit agreements between the Department of Commerce and Economic Opportunity and applicants to contain a provision requiring the applicant to maintain, beyond the period during which it receives the EDGE tax credit, employment payrolls at an agreed upon level. Provides that if employment payrolls are not maintained at that level for the specified term, then the taxpayer must pay an administrative penalty to the Department and shall not, until having paid that penalty, be eligible for credits against obligations imposed by the Illinois Income Tax Act. Requires the Department to deposit into the General Revenue Fund all moneys collected as a result of these penalties and to notify the Department of Revenue when a taxpayer, because of the operation of these provisions, becomes ineligible or eligible for credits against obligations imposed under the Illinois Income Tax Act. Amends the State Comptroller Act to require the Comptroller, at the direction of the Department of Commerce and Economic Opportunity, to deduct these penalties from certain warrants and payments made to the taxpayer, and to pay those amounts over to the Department for deposit into the General Revenue Fund. Effective immediately.

LRB096 15725 HLH 30962 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The State Comptroller Act is amended by adding
5 Section 10.05c as follows:

6 (15 ILCS 405/10.05c new)

7 Sec. 10.05c. Deductions from warrants and payments for
8 satisfaction of EDGE employment penalty. At the direction of
9 the Department of Commerce and Economic Opportunity, the
10 Comptroller shall deduct from a warrant or other payment
11 described in Section 10.05 of this Act, in accordance with the
12 procedures provided therein, and pay over to the Department of
13 Commerce and Economic Opportunity, for deposit into the General
14 Revenue Fund, that amount certified as necessary to satisfy, in
15 whole or in part, amounts due and owing from a Taxpayer under
16 Section 5-67 of the Economic Development for a Growing Economy
17 Tax Credit Act.

18 Section 10. The Economic Development for a Growing Economy
19 Tax Credit Act is amended by changing Section 5-50 and by
20 adding Section 5-67 as follows:

21 (35 ILCS 10/5-50)

1 Sec. 5-50. Contents of Agreements with Applicants. The
2 Department shall enter into an Agreement with an Applicant that
3 is awarded a Credit under this Act. The Agreement must include
4 all of the following:

5 (1) A detailed description of the project that is the
6 subject of the Agreement, including the location and amount
7 of the investment and jobs created or retained.

8 (2) The duration of the Credit and the first taxable
9 year for which the Credit may be claimed.

10 (3) The Credit amount that will be allowed for each
11 taxable year.

12 (4) A requirement that the Taxpayer shall maintain
13 operations at the project location that shall be stated as
14 a minimum number of years not to exceed 10.

15 (5) A specific method for determining the number of New
16 Employees employed during a taxable year.

17 (6) A requirement that the Taxpayer shall annually
18 report to the Department the number of New Employees, the
19 Incremental Income Tax withheld in connection with the New
20 Employees, and any other information the Director needs to
21 perform the Director's duties under this Act.

22 (7) A requirement that the Director is authorized to
23 verify with the appropriate State agencies the amounts
24 reported under paragraph (6), and after doing so shall
25 issue a certificate to the Taxpayer stating that the
26 amounts have been verified.

1 (8) A requirement that the Taxpayer shall provide
2 written notification to the Director not more than 30 days
3 after the Taxpayer makes or receives a proposal that would
4 transfer the Taxpayer's State tax liability obligations to
5 a successor Taxpayer.

6 (9) A detailed description of the number of New
7 Employees to be hired, and the occupation and payroll of
8 the full-time jobs to be created or retained as a result of
9 the project.

10 (10) The minimum investment the business enterprise
11 will make in capital improvements, the time period for
12 placing the property in service, and the designated
13 location in Illinois for the investment.

14 (11) A requirement that the Taxpayer shall provide
15 written notification to the Director and the Committee not
16 more than 30 days after the Taxpayer determines that the
17 minimum job creation or retention, employment payroll, or
18 investment no longer is being or will be achieved or
19 maintained as set forth in the terms and conditions of the
20 Agreement.

21 (12) A provision that, if the total number of New
22 Employees falls below a specified level, the allowance of
23 Credit shall be suspended until the number of New Employees
24 equals or exceeds the Agreement amount.

25 (13) A detailed description of the items for which the
26 costs incurred by the Taxpayer will be included in the

1 limitation on the Credit provided in Section 5-30.

2 (13.5) A provision (i) requiring the Taxpayer to
3 maintain, for an agreed upon term lasting beyond the term
4 during which the Credit is received, employment payrolls at
5 a level agreed upon with the Department and (ii) specifying
6 that the Taxpayer must pay the penalty specified in Section
7 5-67 if it does not maintain employment payrolls at that
8 level for the agreed upon term.

9 (14) Any other performance conditions or contract
10 provisions as the Department determines are appropriate.

11 (Source: P.A. 91-476, eff. 8-11-99.)

12 (35 ILCS 10/5-67 new)

13 Sec. 5-67. EDGE employment penalty. If a Taxpayer fails to
14 maintain employment payrolls at the level and for the term
15 specified by agreement under item (13.5) of Section 5-50, then
16 the Taxpayer must pay an administrative penalty to the
17 Department in an amount that the Department shall establish by
18 rule, and shall not, until having paid that penalty in full, be
19 eligible for any credit to offset obligations imposed under the
20 Illinois Income Tax Act. The Department shall deposit into the
21 General Revenue Fund all moneys collected under this Section
22 5-67, and shall notify the Department of Revenue when a
23 Taxpayer, because of the operation of this Section, becomes
24 ineligible or eligible for credits against obligations imposed
25 under the Illinois Income Tax Act.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.